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Washington, Saturday, April 20, 1940

The President

EXECUTIVE ORDER

AMENDING THE FOREIGN SERVICE REGULATIONS OF THE UNITED STATES

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (22 U.S.C., sec. 132), and by the act of February 23, 1931, 46 Stat. 1207, as amended, it is ordered that the Foreign Service Regulations of the United States be, and they are hereby, amended by prescribing the following as Chapter I thereof:

CHAPTER I—FOREIGN SERVICE PERSONNEL

I-1. Officers and employees of the Foreign Service.—(a) *Officers of the Foreign Service.* The term "officers of the Foreign Service" shall denote:

(1) Ambassadors and ministers—diplomatic representatives appointed to serve at the pleasure of the President.

(2) Classified Foreign Service officers—permanent officers in the Foreign Service below the grade of minister who are subject to promotion on merit and who may be appointed as diplomatic or consular officers.

(3) Vice consuls—clerks who have been commissioned by the Secretary of State to perform consular duties.

(4) Consular agents—consular officers subordinate to principal consular officers exercising the powers vested in them and performing the duties prescribed for them by regulation of the President at posts or places different from those at which such principals are located. (Feb. 5, 1915, 38 Stat. 806; 22 U.S.C., sec. 51.)

(b) *Employees of the Foreign Service.* The term "employees of the Foreign Service" shall denote clerks, other than vice consuls, and miscellaneous employees in Foreign Service establishments.

I-2. Governing bodies in the Foreign Service.—(a) Board of Foreign Service Personnel. The Board of Foreign Service Personnel for the Foreign Service.

established by section 31 of the act of February 23, 1931, 46 Stat. 1214 (22 U.S.C., sec. 23f), shall, in addition to performing those duties imposed upon it by that statute, act in an advisory capacity to the Secretary of State in matters pertaining to the assignments and changes in status of officers of the Foreign Service.

(b) *Division of Foreign Service Personnel.* The Division of Foreign Service Personnel, in the Department of State, shall, in addition to performing those duties imposed upon it by section 32 of the act of February 23, 1931, 46 Stat. 1214 (22 U.S.C., sec. 23h), coordinate and maintain the personnel reports and records of officers and employees of the Foreign Service.

1-3. Appointments of officers and employees in the Foreign Service.—(a) Ambassadors and ministers. Ambassadors and ministers are appointed by the President, by and with the advice and consent of the Senate. (Const., Art. II, sec. 2.)

(b) *Foreign Service officers.* Foreign Service officers are appointed to positions in the classified Foreign Service of the United States by the President of the United States, by and with the advice and consent of the Senate, either after examination or after five years of continuous service in an executive or quasi-executive position in the Department of State, by transfer therefrom. (46 Stat. 1208; 22 U.S.C., sec. 5.)

(1) *Examinations for the Foreign Service.* Examinations for the Foreign Service shall be given in accordance with rules and regulations prescribed by a Board of Examiners, which is hereby established and which shall be composed of three Assistant Secretaries of State designated by the Secretary of State, an officer of the Department of Commerce designated by the Secretary of Commerce and acceptable to the Secretary of State, an officer of the Department

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Examiner of the Civil Service Commission. Any member of the Board of Examiners may, when he deems it necessary, designate another officer of his department acceptable to the Secretary of State to serve for him on the Board.

(2) *Basis for appointments after 5 years' service in the Department of State.* Appointments after 5 years' service in the Department of State as above stated may be made to positions in any classes in the Foreign Service on the basis of recommendations submitted by the Board of Foreign Service Personnel.

(c) *Vice consuls.* Vice consuls shall be commissioned by the Secretary of State.

(d) *Consular agents.* Consular agents shall be commissioned by the Secretary of State upon the receipt of nominations from the officer in charge of the particular district.

(e) *Employees.* Clerks and other employees of the Foreign Service shall be appointed directly by the Secretary of State or by the officer in charge of the post subject to the approval of the Secretary of State.

I-4. *Duties of officers and employees upon entering office.*—(a) *Oath of office.* After appointment, all ambassadors, ministers, Foreign Service officers, vice consuls, and all American consular agents and employees of the Foreign Service are required to take the oath of office prescribed by section 1757 of the Revised Statutes of the United States, as amended by section 2 of the act of May 13, 1884, 23 Stat. 22 (5 U.S.C., sec. 16).

(b) *Affidavit to be executed by officers of the United States upon appointment to office.* After appointment, officers of the Foreign Service are required to execute Standard Form No. 1041, entitled "Affidavit to be Executed by Officers of the United States upon Appointment to Office," in conformity with the provisions

of section 1 of the act of December 11, 1926, as amended, 44 Stat. 918 (5 U.S.C., sec. 21a).

(c) *Submission of information for personnel records.* Officers and employees of the Foreign Service shall submit such information as may be required for the personnel records maintained in the Division of Foreign Service Personnel.

I-5. *Foreign Service Officers' Training School.* There is hereby established in the Department of State a school to be known as the Foreign Service Officers' Training School. This school shall be under the general supervision of the Secretary of State and shall be conducted in accordance with rules and regulations prescribed by him subject to the following provisions of this section:

(a) *Board of Foreign Service Officers' Training School.* The Foreign Service Officers' Training School shall be under the immediate direction of a board to be known as the Board of Foreign Service Officers' Training School, which shall be composed of the members of the Board of Foreign Service Personnel, the Chief of the Division of Foreign Service Personnel, and the Director of the School. All decisions of the School Board shall be subject to the approval of the Secretary of State.

(b) *Director of the Foreign Service Officers' Training School.* There shall be a Director of the Foreign Service Officers' Training School who shall be selected, subject to the approval of the Secretary of State, by the School Board from available Foreign Service officers.

(c) *Instructors in Foreign Service Officers' Training School.* Instructors for the Foreign Service Officers' Training School shall be selected by the School Board from available Foreign Service officers, qualified personnel in the Department of State, and other Executive departments, and, in the discretion of the School Board, from any other available sources.

(d) *Probationary period of new appointees to the classified Foreign Service.* New appointees to the classified Foreign Service of the United States shall serve, at such time and for such duration as the Secretary of State may determine, a period of probation in the Foreign Service Officers' Training School herein established.

I-6. *Compensation of officers and employees of the Foreign Service.* The compensation of officers and employees of the Foreign Service shall be at the rates established by law, or by regulation of the Secretary of State.

I-7. *Bonds of officers in the Foreign Service.*—(a) *Foreign Service officers and vice consuls.* Every Foreign Service officer and vice consul shall, before receiving his original commission and entering upon the duties of his office, give to the United States a bond conditioned as provided in section 16 of the act of February 23, 1931, 46 Stat. 1208 (22 U.S.C., sec. 11),

with such sureties as the Secretary of State shall approve, and in penal sum as follows:

| | |
|---|----------|
| Foreign Service officers, Class I to Class VIII, inclusive | \$10,000 |
| Foreign Service officers, Unclassified, (A), (B), and (C) | 5,000 |
| Vice consuls | 5,000 |

(b) *Consular agents.* Consular agents shall not be required to give bonds to the United States. However, a consular officer having a consular agent under his supervision may take from him a bond in such amount as the officer may deem necessary for his own protection.

(c) *Employees.* Employees of the Foreign Service shall not be required to give bonds to the United States. However, a principal officer having an employee in his office who has access to the funds of the office may take from him a bond in such amount as the officer may deem necessary for his own protection.

I-8. *Assignments of officers and employees of the Foreign Service.*—(a) *Ambassadors and ministers.* Ambassadors and ministers are appointed to serve at particular posts.

(b) *Foreign Service officers.* A Foreign Service officer may be assigned, by the Secretary of State, to duty at either a diplomatic or a consular post, or both, at the discretion of the President, or, without loss of class or salary, for service in the Department of State for a period of not more than 3 years, unless the public interests demand further service, when such assignment may be extended for a period not to exceed 1 year. (Feb. 23, 1931, 46 Stat. 1207, 1209; 22 U.S.C., secs. 2, 15.)

(c) *Vice consuls and employees.* Vice consuls and employees in the Foreign Service shall be assigned by the Secretary of State, in his discretion, to serve at designated posts.

I-9. *Assignments of ambassadors, ministers, and Foreign Service officers to special details.* Ambassadors, ministers, and Foreign Service officers may be detailed by the Secretary of State for duty in connection with trade conferences or international gatherings, congresses, or conferences, or for other special duty either in the Department of State or elsewhere. (Feb. 23, 1931, 46 Stat. 1209; 22 U.S.C., sec. 16.)

I-10. *Assignments of Foreign Service officers as Foreign Service inspectors.* Foreign Service officers above the grade of Class VI may be assigned by the Secretary of State as Foreign Service inspectors to inspect and report on the work of diplomatic and consular offices. (Feb. 23, 1931, 46 Stat. 1200; 22 U.S.C., sec. 9.)

I-11. *Designations of Foreign Service officers as agricultural attachés.* The Secretary of State may designate Foreign Service officers to serve as agricultural attachés when the public interest so requires. In like manner, Foreign

Service officers may be designated to serve as assistant agricultural attachés.

I-12. *Designation of Foreign Service officers as commercial attachés.* The Secretary of State may designate Foreign Service officers to serve as commercial attachés when the public interest so requires. In like manner, Foreign Service officers may be designated to serve as assistant commercial attachés.

I-13. *Assignment of Foreign Service officers as language officers.* Foreign Service officers may be assigned by the Secretary of State as language officers to study the language or languages of, and to engage in other prescribed studies in relation to, a particular geographic area, subject to such rules and regulations as the Secretary of State may prescribe governing such studies. Foreign Service officers may likewise be designated as language secretaries to supervise the studies of language officers.

I-14. *Limitation on public speeches.* Officers of the Foreign Service shall not allude in public speeches to disputes between governments, to active political issues in the United States or elsewhere, or to any matters pending in any Foreign Service establishment.

I-15. *Limitation on political conversation and activities.* Officers of the Foreign Service shall not participate in any manner in political matters of the country to which they are accredited or assigned. They shall also refrain from expressing harsh or disagreeable opinions upon local political questions or other controversial subjects.

I-16. *Limitation on participation in club or organization activities.* Unless otherwise authorized by the Department of State, an officer of the Foreign Service shall refrain from joining social organizations if membership therein would affiliate the officer with any particular faction of the community in which he is stationed.

I-17. *Limitation on correspondence.* Officers of the Foreign Service are forbidden to make any allusion in their public or private correspondence with persons other than the proper officials of the United States to the public affairs of any foreign government, whether political or otherwise, or to political issues arising in the United States. Questionnaires on political issues shall be acknowledged and the inquirer referred to the Department of State. (June 17, 1874, 18 Stat. 77; 22 U.S.C., sec. 126.)

I-18. *Limitation on private communications relating to official matters.* Officers of the Foreign Service shall not, except in unusual circumstances, conduct private correspondence with officers of the Department of State upon topics relating to official business.

I-19. *Prohibitions against engaging in business.* Officers of the Foreign Service are forbidden to transact, engage in, or have any interest in any business to, from, or within the limits of their respective jurisdictions, either in their own

names or in the names or through the agency of any other persons.

Officers of the Foreign Service are also forbidden to make any investments of money within the limits of the foreign country to which the officers are accredited or assigned. This prohibition shall apply to the owning of real estate, bonds, shares, stocks, and mortgages, but does not extend to the purchase of a house and land for personal use. (Feb. 5, 1915, and Apr. 5, 1906; 38 Stat. 807, 34 Stat. 101; 22 U.S.C., secs. 38, 106.)

I-20. *Prohibitions against use of title or official seal for private business.* Officers of the Foreign Service shall not use their official titles or seals in private business transactions, or on bills, notes, bonds, or other personal obligations. The seal shall be used only in connection with official services and shall be kept under lock to prevent its use by unauthorized persons.

I-21. *Limitation on making recommendations for positions.* An officer of the Foreign Service shall not recommend any one for a position other than a subordinate position in his own office.

I-22. *Limitation on employment of members of family.* Members of the family of an officer of the Foreign Service shall not be employed in his office except in a grave emergency and with the express authorization of the Department of State received in advance of the employment, and such employment shall continue only for such length of time as the situation remains acute.

I-23. *Prohibition against acceptance of presents, testimonials, and gratuities by officers and employees of the Foreign Service.* Officers and employees of the Foreign Service are prohibited from accepting, under any circumstances, any present, decoration, medal, order, or testimonial that may be tendered to them by any foreign sovereign, head of state, or foreign government. (Const., Art. I, sec. 9, cl. 8; June 17, 1874, 18 Stat. 77; 22 U.S.C., sec. 126.) Such officers and employees shall not accept gratuities or gifts in any form from persons or organizations who may in any way be affected by the performance of their official duties.

I-24. *Prohibition against acting as transmitting agent for gifts and communications.* Officers of the Foreign Service shall not act as transmitting agents for gifts or communications from citizens, subjects, or organizations in foreign countries to the President of the United States or to Federal, State, or municipal officials; or for gifts or communications from citizens or organizations in the United States to the heads of foreign states or other officials in foreign countries.

I-25. *Limitation on preferring of charges.* An officer or employee of the Foreign Service shall not attack, prefer charges against, or publicly criticize any other officer or employee of the Foreign Service except in a confidential com-

munication to the proper official in the Department of State.

I-26. *Limitation on marriage of Foreign Service officers to aliens.* Before contracting marriage with a person of foreign nationality each Foreign Service officer shall request and obtain permission so to do from the Secretary of State under such instructions as may be issued to him, and any officer who shall contract marriage with an alien without obtaining in advance the authorization of the Secretary of State shall be deemed guilty of insubordination and shall be separated from the Service. Each request for permission to marry an alien shall be accompanied by the officer's resignation from the Foreign Service for such action as may be deemed appropriate.

No person married to an alien shall be designated to take the entrance examinations for the Foreign Service.

I-27. *Limitation on wearing of uniforms and decorations.* Officers and employees of the Foreign Service are forbidden to wear any uniform, other than one authorized by the Congress, or any decoration, other than one bestowed upon him by the United States, during the period he is connected with the Foreign Service. (R. S. sec. 1688; 22 U.S.C., sec. 39.)

I-28. *Involuntary separation from Service.* A Foreign Service officer may be separated from the Foreign Service in accordance with the provisions of section 33 of the act of February 23, 1931, 46 Stat. 1215, as amended by section 4 of the act of April 24, 1939, 53 Stat. 588 (22 U.S.C., Supp. V, sec. 23i), and such administrative rules and regulations not inconsistent therewith as may be prescribed by the Secretary of State.

I-29. *Retirement of persons eligible for benefits under the Foreign Service Retirement and Disability System.*—(a) *Classes of persons eligible for retirement benefits.* Persons coming within the scope of any of the following classes may be retired or be eligible for retirement in accordance with and subject to the requirements of the Foreign Service Retirement and Disability System, as established under the provisions of the act of February 23, 1931, 46 Stat. 1211, as amended, and such administrative rules and regulations not inconsistent therewith as may be prescribed by the Secretary of State:

(a) Foreign Service officers.

(b) Ambassadors, ministers, and persons appointed to positions in the Department of State, as follows:

(1) Those who have been or may hereafter be appointed directly from positions in the classified Foreign Service and thereafter, without break in the continuity of their service, have occupied or shall occupy positions as ambassadors, ministers, Foreign Service officers, or positions in the Department of State.

(2) Those who were included in the act of July 3, 1926, 44 Stat. 902, and whose status is continued in effect under the provisions of section 26 (n) of the act of February 23, 1931, 46 Stat. 1211, as amended by the act of July 19, 1939, 53 Stat. 1067 (22 U.S.C. Supp. V, sec. 21 (n)).

(3) Subject to election, those (including former ambassadors or ministers) who have served an aggregate period of 20 years or more in any of the capacities specified in, and as provided in, section 26 (o) of the act of February 23, 1931, 46 Stat. 1211, as amended by the act of August 5, 1939, 53 Stat. 1208 (22 U.S.C. Supp. V, sec. 21 (o)), and who pay the special lump-sum contribution required in such cases by the provisions of section 26 (n) of the said act of February 23, 1931, 46 Stat. 1211, as amended by the said act of July 19, 1939, 53 Stat. 1067 (22 U.S.C. Supp. V, sec. 21 (n)).

(b) *Optional purchase of additional retirement benefits.* Foreign Service officers may purchase additional retirement benefits in accordance with the provisions of section 26 (c) of the said act of February 23, 1931, as amended by section 3 of the act of April 24, 1939, 53 Stat. 584, and such administrative rules and regulations not inconsistent therewith as may be prescribed by the Secretary of State.

I-30. *Retirement of American vice consuls, clerks, and other employees of the Foreign Service.* All vice consuls, clerks, and other employees in the Foreign Service, who are citizens of the United States, whose tenure of employment is not intermittent or of uncertain duration, and who are not eligible for benefits under the Foreign Service Officers' Retirement and Disability System (sec. I-29) may be retired, or be eligible for retirement, in accordance with, and subject to the requirements of, the Civil Service Retirement Act of May 29, 1930, 46 Stat. 468, as amended.

Cancellation of Regulations

The following-described provisions of the Foreign Service Regulations of the United States are hereby canceled:

Part I

Sections IV-8, IV-9, V-1 to V-5, inclusive, V-7, VIII-8, VIII-10, VIII-12, VIII-15, XV-1, XV-2, XV-5 to XV-7, inclusive, XVI-2, XVI-4, XVI-5, XVI-6, and XVI-21.

Chapter III.

Part II

Sections XXIV-434 to XXIV-436, inclusive, XXIV-438, XXIV-451, XXIV-452, XXIV-456, and XXIV-459.

Chapters I and II.

Revocation of Executive Orders

The following-described Executive orders are hereby revoked:

Executive Order No. 171, dated April 25, 1902

- Executive Order No. 2406, dated June 23, 1916
- Executive Order No. 4879, dated May 8, 1928
- Executive Order No. 4892, dated May 26, 1928
- Executive Order No. 5642, dated June 8, 1931
- Executive Order No. 7497, dated November 17, 1936¹
- Executive Order No. 7577, dated March 19, 1937²
- Executive Order No. 8078, dated April 4, 1939³
- Executive Order No. 8177, dated June 21, 1939⁴
- Paragraphs 3 and 4 of Executive Order No. 8185, dated June 29, 1939.⁵

FRANKLIN D ROOSEVELT
THE WHITE HOUSE,
April 18, 1940.
[No. 8396]

[F. R. Doc. 40-1573; Filed, April 19, 1940; 10:55 a. m.]

Rules, Regulations, Orders

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER VIII—PROCUREMENT AND DISPOSAL OF EQUIPMENT AND SUPPLIES

PART 81—PROCUREMENT OF MILITARY SUPPLIES AND ANIMALS

AMENDMENT OF § 81.10

§ 81.10 Invitations for bids.

* * * * *

(f) Special conditions authorized or required to be included.

* * * * *

(12) Special purchasing procedure under the Walsh-Healey Public Contracts Act.

(i) In conformity with paragraph (a) (9), every invitation for bids in which it is required that there be included contract stipulations as set out in the publication of the Department of Labor entitled "Rulings and Interpretations under the Walsh-Healey Public Contracts Act," 1937, will also include "Information for bidders" as set out below immediately after such stipulations. Determinations as to wages made by the Secretary of Labor will be published from time to time in War Department Procurement Circulars. If such a determination has been made, paragraph 1b of "Information for bidders" will be deleted and the determination will be added to paragraph 1a thereof or, if more convenient, will be referred to there and shown elsewhere in the invitation. If such a determination has not been made, paragraph 1a of "Information for bidders" will be deleted.

INFORMATION FOR BIDDERS

1. Stipulation (b) of "Representations and stipulations pursuant to Public Act No. 846, Seventy-fourth Congress" above, approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35-45), with respect to wages, is:

a. Operative, in view of the following determination relative prevailing minimum wage rates (-----).

b. Inoperative due to lack of determination by the Secretary of Labor of prevailing minimum wage rates for the industry involved.

2. The attention of bidders is directed to the publication of the United States Department of Labor entitled "Rulings and Interpretations, September 29, 1939, Walsh-Healey Public Contracts Act." This publication may be purchased from the Superintendent of Documents, Washington, D. C., for 10 cents. Knowledge of the contents of this publication is essential for all bidders since in addition to rulings and interpretations, it contains the rules and regulations of the Secretary of Labor published pursuant to section 4 of the law which are applicable to this invitation for bids and definitions of the terms "manufacturer" and "regular dealer." In all cases where the representations and stipulations pursuant to this law are applicable, bids submitted by others than manufacturers or regular dealers as defined in that publication will be rejected. The bidder shall here indicate the category or categories in which he qualifies:

Manufacturer _____

Regular dealer _____

(ii) In the absence of evidence to the contrary, a bidder who bids as a manufacturer or regular dealer in conformity with subparagraph (i) will be considered to be properly in such category.

"If an invitation for bids omits the stipulations of the Walsh-Healey Public Contracts Act in anticipation that the amount involved will not exceed \$10,000, but the lowest bid received does exceed \$10,000, a contract should not be awarded without including the stipulations of the Act." (Letter, Dept. of Labor, May 21, 1937) (49 Stat. 2036; 41 U.S.C. 35-45) [Pars. 4, 5, Proc. Cir. 9, Apr. 16, 1940]

[SEAL]

E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 40-1572; Filed, April 19, 1940; 10:42 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER 1—FEDERAL TRADE COMMISSION

[Docket No. 3234]

IN THE MATTER OF CONSOLIDATED PINNACLE COAL COMPANY ET AL

§ 3.6 (cc) (4) Advertising falsely or misleadingly—Source or origin—Place: § 3.66 (k) (4) Misbranding or mislabeling—Source or origin—Place: § 3.96 (a) (9) Using misleading name—Goods—Source or origin—Place: § 3.96 (b) (5.5) Using misleading name—Vendor—Products. Using, in connection with offer, etc., in commerce, of coal, the word "Pinnacle" in any corporate or trade-name, or at all, when the coal sold by

¹ 1 F.R. 2070.

² 2 F.R. 572.

³ 4 F.R. 1475.

⁴ 4 F.R. 2467.

⁵ 4 F.R. 2749.

respondent has not been mined from the Pinnacle Mine situated at Pinnacle in the County of Routt, State of Colorado, or designating or describing coal which has not been mined from said Pinnacle Mine as being Pinnacle coal, or otherwise representing that such coal is Pinnacle coal, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Consolidated Pinnacle Coal Company et al., Docket 3234, April 10, 1940]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of April, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF CONSOLIDATED PINNACLE COAL COMPANY, A CORPORATION, AND ELLIS MORRELL, AN INDIVIDUAL

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent Consolidated Pinnacle Coal Company, (respondent Ellis Morrell not having been served) testimony and other evidence taken before examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief filed herein by counsel for the Commission (respondent not having filed brief); and the Commission having made its findings as to the facts and its conclusion that said respondent, Consolidated Pinnacle Coal Company, has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Consolidated Pinnacle Coal Company, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of coal, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Pinnacle" in any corporate or trade name, or at all, when the coal sold by respondent has not been mined from the Pinnacle Mine situated at Pinnacle in the County of Routt, State of Colorado;

2. Designating or describing coal which has not been mined from the Pinnacle Mine situated at Pinnacle in the County of Routt, State of Colorado, as being Pinnacle coal; or otherwise representing that such coal is Pinnacle coal.

It is further ordered, That the respondent, Consolidated Pinnacle Coal Company, shall, within sixty (60) days

after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

It is further ordered, That the case growing out of the complaint herein be, and the same hereby is, closed as to Ellis Morrell, subject to the Commission's right to reopen the case in the event future developments so warrant.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-1577; Filed, April 19, 1940;
11:34 a. m.]

[Docket No. 3361]

IN THE MATTER OF FORSON LABORATORIES, INC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product*: § 3.6 (x) *Advertising falsely or misleadingly—Results*. Representing, in connection with offer, etc., in commerce, of respondent's "Nu Myst" medicinal, or other similar, product, that its said preparation is a cure or remedy for colds, whooping cough, hay fever, rose fever or asthma, or is a competent or effective treatment for, or will relieve, said ailments or conditions, beyond such temporary relief as may be afforded by the temporary allaying of local irritation, or will destroy bacteria or prevent the growth of bacteria, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Forson Laboratories, Inc., Docket 3361, April 10, 1940]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 10th day of April, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before Arthur F. Thomas and Randolph Preston, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and in opposition thereto, brief in support of the complaint (no brief having been filed on behalf of respondent), and oral arguments by William L. Taggart, counsel for the Commission, and by Philip Steinman, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Forson Laboratories, Inc., a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its medicinal preparation designated "Nu Myst", or any other preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under that name or any other name or names, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing:

(1) That respondent's preparation is a cure or remedy for colds, whooping cough, hay fever, rose fever or asthma;

(2) That respondent's preparation is a competent or effective treatment for, or that it will relieve, colds, whooping cough, hay fever, rose fever, or asthma, beyond such temporary relief as may be afforded by the temporary allaying of local irritation;

(3) That respondent's preparation will destroy bacteria or prevent the growth of bacteria.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-1578; Filed, April 19, 1940;
11:35 a. m.]

[Docket No. 3937]

IN THE MATTER OF MICHIGAN BEAN SHIPPERS ASSOCIATION ET AL.

§ 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices*. Concertedly, through cooperation and agreement, and in connection with offer, etc., in interstate commerce or in District of Columbia, of beans or barley, establishing, making up or computing, or causing to be established, made up or computed, or publishing or disseminating, or causing to be published or disseminated, from time to time or at any time, through the offices of the Michigan Bean Shippers' Association, or any other central agency, or otherwise, a price, bid, quotation or "close" for beans, prohibited; subject to the provision, however, that such order shall not prohibit collection and dissemination of prices paid or bids or quotations made in past and closed transactions, nor the publishing and disseminating of accurate and correct reports showing the range of prices paid or received in past and closed transactions. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Michigan Bean

Shippers Association et al., Docket 3937, April 11, 1940

§ 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* Concertedly, through cooperation and agreement, and in connection with offer, etc., in interstate commerce or in District of Columbia, of beans or barley, making any report or reports, or representation to the Michigan Bean Shippers' Association, or any other central agency, of price or prices, bid or bids, paid or made for beans grown in the State of Michigan, which is or are not accurate, true and correct, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Michigan Bean Shippers Association et al., Docket 3937, April 11, 1940]

§ 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices.* Concertedly, through cooperation and agreement, and in connection with offer, etc., in interstate commerce or in District of Columbia, of beans or barley, (a) fixing and maintaining (1) the differential, charge or spread, or differentials, charges or spreads to be made or received for the function or functions performed by elevator men and/or jobbers in buying and selling beans or barley in commerce, or (2) schedules of charges, and charges for separating and removing foreign materials, culls and other demerits from beans, and (b) establishing and using a uniform contract embodying terms and conditions of sale for buying and selling beans, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Michigan Bean Shippers Association et al., Docket 3937, April 11, 1940]

§ 3.27 (h) *Combining or conspiring—To restrain and monopolize trade.* Concertedly, through cooperation and agreement, and in connection with offer, etc., in interstate commerce or in District of Columbia, of beans or barley, adopting and maintaining any rule or rules of practice, regulation or measure, which tends to prevent the use of any machine, device or method for cleaning, grading and processing beans, unless said machine, device or method is injurious and detrimental to the welfare of the bean industry of the State of Michigan, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Michigan Bean Shippers Association et al., Docket 3937, April 11, 1940]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of April, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF MICHIGAN BEAN SHIPPERS ASSOCIATION, A NON-PROFIT CORPORATION, ITS OFFICERS, L. W. TODD, PRESIDENT, R. C. SMITH, VICE-PRESIDENT, ASA E. WALCOTT, SECRETARY-TREASURER; ITS DIRECTORS, R. C. SMITH, L. L. GREEN, L. W. TODD, CLAUDE H. ESTEE, E. H. BUESCHLEN, WILLIAM R. NEUMANN, A. L. WARD; AND ITS MEMBERS, CHARLES WOLOHAN, INC., J. P. BURROUGHS AND SON, HAMMERSLAG & TINKHAM, INC., MINOR WALTON BEAN COMPANY, MICHIGAN ELEVATOR EXCHANGE, RYON GRAIN COMPANY, STICKLE-SWIFT, INC., HART BROTHERS, MICHIGAN BEAN COMPANY, INDIVIDUALLY AND AS REPRESENTATIVE MEMBERS OF SAID ASSOCIATION

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and a stipulation as to the facts entered into between the respondents herein by their attorney, W. P. Smith, and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceedings, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Michigan Bean Shippers' Association, a non-profit corporation, its officers, L. W. Todd, President, Asa E. Walcott, Secretary-Treasurer; its directors, Claude H. Estee, E. H. Bueschlen, William R. Neumann, and its members, Charles Woohan, Inc., J. P. Burroughs and Son, Hammarslag & Tinkham, Inc., Minor Walton Bean Company, Michigan Elevator Exchange, Ryon Grain Company, Stickle-Swift, Inc., Hart Brothers, Michigan Bean Company, individually and as representative members of said Association, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of beans or barley in interstate commerce or in the District of Columbia, do forthwith cease and desist from concertedly, through cooperation and agreement:

1. Establishing, making up or computing, or causing to be established, made up or computed, or publishing or disseminating, or causing to be published or disseminated, from time to time or at any time, through the offices of the Michigan Bean Shippers' Association, or any other central agency, or otherwise, a price, bid, quotation or "close" for beans; provided, that this shall not prohibit collection and dis-

semination of prices paid or bids or quotations made in past and closed transactions, nor the publishing and disseminating of accurate and correct reports showing the range of prices paid or received in past and closed transactions;

2. Making any report or reports, or representation to the Michigan Bean Shippers' Association, or any other central agency, of price or prices, bid or bids, paid or made for beans grown in the State of Michigan, which is or are not accurate, true and correct;

3. Fixing and maintaining the differential, charge or spread, or differentials, charges or spreads to be made or received for the function or functions performed by elevator men and/or jobbers in buying and selling beans or barley in commerce;

4. Fixing and maintaining schedules of charges, and charges for separating and removing foreign materials, culls and other demerits from beans;

5. Adopting and maintaining any rule or rules of practice, regulation or measure, which tends to prevent the use of any machine, device or method for cleaning, grading and processing beans, unless said machine, device or method is injurious and detrimental to the welfare of the bean industry of the State of Michigan.

6. Establishing and using a uniform contract embodying terms and conditions of sale for buying and selling beans.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to R. C. Smith, L. L. Green and A. L. Ward, as officers and/or directors of the respondent, Michigan Bean Shippers Association.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

F. R. Doc. 40-1579; Filed, April 19, 1940;
11:35 a. m.]

[Docket No. 3910]

IN THE MATTER OF MILLS SALES COMPANY OF NEW YORK, INC., ET AL.

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of cosmetics, shaving and dental creams, pen and pencil sets, and various other articles, any merchandise so packed and assembled that sales of such merchandise to the general public are to be made by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as

amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Mills Sales Company of New York, Inc., et al., Docket 3910, April 12, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of cosmetics, shaving and dental creams, pen and pencil sets, and various other articles, others with any merchandise together with punch boards, push or pull cards, or any other lottery devices, which said punch boards, push or pull cards, or other lottery devices are to be, or may be, used in selling or distributing said merchandise to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Mills Sales Company of New York, Inc., et al., Docket 3910, April 12, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of cosmetics, shaving and dental creams, pen and pencil sets, and various other articles, others with punch boards, push or pull cards, or other lottery devices either with assortments of merchandise or separately, which said punch boards, push or pull cards, or other lottery devices are to be, or may be, used in selling or distributing said merchandise to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Mills Sales Company of New York, Inc., et al., Docket 3910, April 12, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Supplying, etc., in connection with offer, etc., in commerce, of cosmetics, shaving and dental creams, pen and pencil sets, and various other articles, others with punch boards, push or pull cards, or other lottery devices, which are to be, or may be, used in selling or distributing any merchandise to the public, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Mills Sales Company of New York, Inc., et al., Docket 3910, April 12, 1940]

§ 3.99 (b) *Using or selling lottery devices—In merchandising.* Selling, etc., in connection with offer, etc., in commerce, of cosmetics, shaving and dental creams, pen and pencil sets, and various other articles, any merchandise by means of a game of chance, gift enterprise or lottery scheme, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Mills Sales Company of New York, Inc., et al., Docket 3910, April 12, 1940]

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in

the City of Washington, D. C., on the 12th day of April, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF MILLS SALES COMPANY OF NEW YORK, INC., A CORPORATION, AND DAVID JACOBY, EVELYN JACOBY, JOSEPH JACOBY, ESTELLE J. KRUGER AND WALTER JACOBY, INDIVIDUALLY AND AS OFFICERS OF MILLS SALES COMPANY OF NEW YORK, INC.

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Mills Sales Company of New York, Inc., a corporation, its officers, and David Jacoby, Evelyn Jacoby, Joseph Jacoby, Estelle J. Kruger and Walter Jacoby, individually and as officers of said Mills Sales Company of New York, Inc., its and their respective representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of cosmetics, shaving and dental creams, drug and household sundries, perfumes, notions, pen and pencil sets, comb and brush sets, billfolds or any other articles of merchandise, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Selling and distributing any merchandise so packed and assembled that sales of such merchandise to the general public are to be made by means of a game of chance, gift enterprise or lottery scheme;

(2) Supplying to or placing in the hands of others any merchandise, together with punch boards, push or pull cards, or any other lottery devices, which said punch boards, push or pull cards, or other lottery devices are to be used or may be used in selling or distributing said merchandise to the public;

(3) Supplying to or placing in the hands of others punch boards, push or pull cards, or other lottery devices either with assortments of merchandise or separately, which said punch boards, push or pull cards, or other lottery devices are to be used or may be used in selling or distributing said merchandise to the public;

(4) Supplying to or placing in the hands of others punch boards, push or

pull cards, or other lottery devices, which are to be used or may be used in selling or distributing any merchandise to the public;

(5) Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme.

It is further ordered. That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-1576; Filed, April 19, 1940;
11:33 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

CHAPTER II—RAILROAD RETIREMENT BOARD

AMENDMENT TO REGULATIONS UNDER THE RAILROAD RETIREMENT ACT OF 1937

Pursuant to the general authority contained in Section 10 of the Act of June 24, 1937 (Sec. 10, 50 Stat. 314; 45 U.S.C. Sup. III, 228j) § 222.05 of the Regulations² of the Railroad Retirement Board under such Act is amended by Board Orders 40-144 dated March 26, 1940 and 40-198 dated April 16, 1940, effective March 26, 1940, as follows:

Section 222.05 is hereby amended by changing the word "carrier" to "employer" wherever it appears, and by adding the following provisos to paragraphs (b) (4) and (c) (4), respectively:

"(b) (4) *Provided, however,* That if in any case above described the employee claims to have earned compensation in an amount less than the average of the verified compensation, the amount so claimed shall be used for that part of the period 1924-1931 in which such amount is so claimed to have been earned rather than the average of the verified compensation."

"(c) (4) *Provided, however,* That in any case in which such recertification would result in a reduction of the amount of the annuity, such reduction will be effective only with respect to future annuity payments: *And provided, further,* That in any case in which such recertification would result in an increase in the amount of the annuity, such increase shall be effective as of the beginning date of the annuity."

By Authority of the Board.

[SEAL] JOHN C. DAVIDSON,
Secretary.

APRIL 19, 1940.

[F. R. Doc. 40-1568; Filed, April 19, 1940;
10:16 a. m.]

¹ 5 F.R. 651.

² 4 F.R. 1477.

**AMENDMENT TO REGULATIONS UNDER THE
RAILROAD RETIREMENT ACT OF 1937**

Pursuant to the general authority contained in Section 10 of the Act of June 24, 1937 (Sec. 10, 50 Stat. 314; 45 U.S.C. Sup. III, 228j) §§ 250.01, 202.11 and 202.12 of the Regulations¹ of the Railroad Retirement Board under such Act are amended by Board Order 40-197, effective April 16, 1940, as follows:

Section 250.01 is hereby amended by designating the material now appearing therein as paragraph (a) and by adding thereto as paragraph (b) the following:

"(b) *Information concerning change of status.* It shall be the duty of each employer promptly to notify the Board of the occurrence of any event, incident, or change in the operations, ownership or control of the employer which affects its status as an employer, under the Railroad Retirement Acts or the Railroad Unemployment Insurance Act; or of any change in the ownership or control by the employer in any company which would affect the status of such company as an employer under the Railroad Retirement Acts or the Railroad Unemployment Insurance Act, or of the acquisition of ownership or control by the employer of any company which would give such company a status as an employer under said Acts. The notice should contain a description of the event, incident, or change, the date or dates thereof, the number and general description of employees thereby affected, and such other data as may be necessary to advise the Board fully of the effect of the particular change."

Sections 202.11 and 202.12 are hereby amended by adding to the end of each the following sentence:

"In accordance with § 250.01 (b) of these Regulations it is the duty of each employer promptly to notify the Board of any change in operations affecting such company's status as an employer."

By Authority of the Board.

[SEAL]

JOHN C. DAVIDSON,
Secretary.

APRIL 19, 1940.

[F. R. Doc. 40-1569; Filed, April 19, 1940;
10:16 a. m.]

TITLE 36—PARKS AND FORESTS

CHAPTER II—FOREST SERVICE

PART 231—GRAZING

**MODIFICATION OF REGULATIONS G-1 TO G-19
INCLUSIVE AND REGULATION G-21**

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat. 628), amendatory of the Act of June 4, 1897 (30 Stat., 11, 35), I, Henry A. Wallace, Secretary of Agriculture, do hereby

revoke Regulations G-1 to G-19 inclusive and Regulation G-21 (§§ 231.1-231.20) of the rules and regulations governing the occupancy, use, protection, and administration of the National Forests, and in lieu thereof do make and publish Regulations G-1 to G-9 inclusive, as follows:

§ 231.1 Authorizations (Reg. G-1).

The Chief of the Forest Service is hereby authorized to permit the grazing of such numbers and kinds of livestock upon the National Forests or additions thereto as in his judgment is in the public interest.

§ 231.2 Management of ranges and handling of livestock (Reg. G-2).

(A) Under the general direction of the Chief of the Forest Service, the forests will be divided into administrative districts, the kind and number of livestock to be grazed in each district determined, grazing seasons established, the entrance of livestock regulated, range divisions between permittees made, and efficient methods of range use developed and applied with the intent of obtaining the most equitable and profitable utilization of the forage consistent with its sustained productivity and with the protection of the forest and other related interests.

(B) Forest officers shall require methods of handling livestock on the national forests designed to secure proper protection of the resources thereon and dependent interests, and may require the owners of livestock to give good and sufficient bond to insure payment for all damage sustained by the Government through violation of the regulations or the terms of the permit.

(The provisions of this Regulation were formerly contained in §§ 231.12 and 231.13.)

§ 231.3 Applications and permits (Reg. G-3).

Unless otherwise authorized by the Chief of the Forest Service, every person must submit an application and obtain a permit before his livestock can be allowed to graze on national-forest lands. The grazing regulations shall be considered a part of every permit.

The Chief of the Forest Service may authorize:

(A) The issuance of paid term, annual, or temporary permits to persons who own the livestock to be grazed and who otherwise qualify for use of national-forest range. A term permit shall not exceed ten years and shall have the full force and effect of a contract between the United States and the permittee. It shall not be reduced or modified except as may be specifically provided for in the permit itself and shall not be revoked or canceled except for violation of its terms or by mutual agreement.

(B) Free grazing, with or without formal permits, to:

(1) Bona fide residents on ranch or agricultural lands within or contiguous to a national forest for not to exceed ten head of milk, work or other animals owned for domestic purposes and whose products are consumed or whose services are used directly by the family of the

resident, where there is a distinct need for forest range to support such animals.

(2) Prospectors, campers, and travelers, for the few head of livestock actually in use during the period of occupancy.

(3) Persons conducting permitted operations on a national forest, for the number of livestock actually needed in connection with such operations.

(4) Others as may be authorized by the Chief of the Forest Service under Regulation C-5.

(C) The issuance of on-and-off grazing permits to persons owning livestock which will graze on range, only part of which is national-forest land, for such proportion of their livestock as the circumstances appear to justify, but such persons may be required so to herd or handle their livestock as to prevent trespassing by that portion for which a permit is not granted.

(D) The issuance of private-land grazing permits, free of charge, to persons who own or control usable lands and who agree that the United States shall have exclusive possession of such lands, for the number of livestock which the private lands will support, provided such an exchange will not be disadvantageous to the Government.

(E) The issuance of crossing permits, either free or on a charge basis, to persons wishing to drive livestock across any portion of a national forest for any purpose.

(The provisions of this Regulation were formerly contained in §§ 231.2, 231.3, 231.4, and 231.5.)

§ 231.4 Limits and preferences (Reg. G-4). For the purposes of equitable distribution of grazing privileges, the prevention of monopoly in the use of national-forest ranges and contributing to the stabilization of the livestock industry, the Chief of the Forest Service shall provide for the establishment for each national forest or portion thereof, of lower and upper limits in numbers of livestock, and may provide for the establishment of special limits for any individuals, firms, or corporations. He shall also provide for the recognition and waiver of preferences, renewal of permits, and admission of new applicants, to an extent consistent with the objects of the grazing regulations.

The lower limit is the number of livestock beyond which a grazing preference will not be allowed to accrue by grant except when surplus range is available, and below which no preference will be reduced for wider distribution of grazing privileges.

The upper limit is the number of livestock up to which grazing preferences may be consolidated through purchase with waiver.

The special limit is the number of livestock at which an existing grazing preference in excess of the upper limit will be given certain defined protection against reduction for wider distribution of grazing privileges.

The Chief of the Forest Service may authorize the Regional Forester in special cases to suspend the upper-limit restriction against consolidation.

Persons who are full citizens of the United States shall be given preference in the use of national-forest ranges over other persons.

A grazing preference is not a property right. Preferences in the use of national-forest ranges are granted for the exclusive use and benefit of the persons to whom awarded. A purchaser of either the permitted livestock or the dependent, commensurate ranch property of a permittee with an established grazing preference will be allowed a renewal of permit in whole or in part, subject to the upper-limit restrictions, provided the purchaser of livestock only, actually owns dependent, commensurate ranch property and the person from whom the purchase is made waives to the Government his preference for renewal of grazing permit. Renewal of grazing preference on account of purchase from a grantee who has used the range less than five years will not be allowed.

Before a grazing preference is renewed on the basis of a waiver, satisfactory evidence must be submitted that the sale of ranch property or livestock, or both, is bona fide.

Persons who have waived any part of a previously established grazing preference will not be recognized as grantee applicants or granted any increases where such action would necessitate a reduction in the preference of established permittees.

(The provisions of this Regulation were formerly contained in § 231.6, 231.7, 231.8, and 231.9.)

§ 231.5 Fees, payments and refunds (Reg. G-5). A fee will be charged for the grazing of all livestock on national forests, except as provided by regulation or unless otherwise authorized by the Secretary of Agriculture or the Chief of the Forest Service.

Under such system as the Chief of the Forest Service finds to be proper, he is authorized to determine the fair compensation to be charged for the grazing of livestock on the national forests. The basic grazing fees thus established may be adjusted annually with relation to the market prices of livestock and will apply to all livestock use with the above-stated and the following exceptions:

(1) An additional charge of 2 cents per head will be made for sheep or goats which are allowed to enter the national forests for the purpose of lambing or kidding.

(2) A special charge may be made for pack and saddle animals used for commercial purposes and allowed to graze on national forests.

(3) No charge will be made for animals under six months of age at the time of entering the national forest, which are the natural increase of the livestock upon which fees are paid or for those born

during the season for which the permit is allowed; providing, that the full fee may be charged for all weaned calves and colts regardless of age.

All grazing fees are payable in advance of the grazing period, unless otherwise authorized by the Chief of the Forest Service. Crossing fees are payable in advance of entering the national forest. Persons who fail to pay the fees as specified must notify the proper forest officer and give satisfactory reasons. Failure to comply with the provisions of this paragraph may be sufficient cause for denying a grazing or crossing permit.

When a permittee is prevented from using the national-forest range by circumstances over which he has no control or for some justifiable cause does not use the privilege granted him, in the discretion of the Regional Forester a refund of the fees paid will be made in whole or in part as the circumstances may justify and the Government's interests will permit.

(The provisions of this Regulation were formerly contained in §§ 231.2, 231.10, and 231.11.)

§ 231.6 Revocations (Reg. G-6) The Chief of the Forest Service may authorize the revocation of grazing permits or preferences in whole or in part for a clearly established violation of the terms of the permit, the regulations upon which it is based, or the instructions of forest officers issued thereunder.

(The provisions of this Regulation were formerly contained in § 231.19.)

§ 231.7 Cooperation with stockmen (Reg. G-7). In order to obtain a collective expression of the views and recommendations of national-forest range users concerning the management and administration of national-forest range lands, the Chief of the Forest Service shall provide for the recognition of and cooperation with local, state and national livestock associations and advisory boards representing such associations; also for recognition of and cooperation with advisory boards elected by the range users of a subdivision of a national forest, an entire national forest, or a group of national forests, when such units are not covered by organized livestock associations. When more than one kind of livestock is permitted to graze on a unit, an advisory board may represent the owners of each kind of livestock or one advisory board may represent all range users.

The recognition of livestock associations and advisory boards shall be under the provisions of Regulation A-9: *Provided*, (1) That advisory boards independent of associations shall be elected, and (2) that advisory boards representing associations may be elected or appointed in the option of the range users.

Boards representing a subdivision of a national forest shall consist of not less than three members. Boards representing an entire national forest or a larger

unit shall consist of not less than five members. When satisfactory with the range users, other organizations or groups using resources of the national forests, may designate a representative to serve on livestock advisory boards.

Suggestions and recommendations of advisory boards, which will meet upon call of the chairman of the board or upon call of the local forest officer, will be obtained and carefully considered upon current grazing programs and upon policy changes well in advance of their adoption by the Forest Service. Advisory boards also will be given the opportunity to review any matters affecting the interests of one or more users of national-forest range upon request of the individual or individuals affected.

Duly recognized advisory boards may consider grazing complaints and appeals and make recommendations thereon; provided that in appeal cases the procedure under Regulation A-10 may be followed if preferred by the appellant.

Advisory boards selected for a national forest, or for a minor subdivision thereof, may pass special rules designed to secure economy of operation, improved grades of livestock, larger natural increases, and similar improved practices which, when approved by the designated forest officer, will be binding upon all permittees using the range for which the rule has been approved.

(The provisions of this Regulation were formerly contained in §§ 231.18 and 231.20)

§ 231.8 Cooperation in the enforcement of sanitation, quarantine and local laws (Reg. G-8). Forest officers will cooperate with State, County, and Federal officers in the enforcement of all laws and regulations relating to livestock.

The Chief of the Forest Service may require:

A. Compliance with livestock quarantine regulations and such other sanitary measures as he may deem necessary to prevent nuisances and insure proper sanitary conditions on the national forests.

B. Owners of all livestock grazed under permit, or allowed to cross any national forest, to comply with the local livestock laws of the State in which the forest is located.

(The provisions of this Regulation were formerly contained in § 231.14)

§ 231.9 Range improvements (Reg. G-9). (A) Special use permits must be obtained for all range improvements constructed on the national forests by individuals or agencies other than the Forest Service.

(1) When the proposed improvements are necessary for the utilization of the range a clause will be included providing that title shall vest in the Government at the end of a ten-year period. Exceptions may be made where an agreement is reached on an adjusted-fee basis for some other period under paragraph (2).

(2) With the consent of a permittee who has constructed or maintained, or who may hereafter construct or maintain, range improvements which are necessary to the efficient utilization and management of national forest range, the Chief of the Forest Service may make an adjustment of the grazing fees for a period of years sufficient to recompense the permittee for the value of such improvements.

Acceptance of the provisions of paragraph (2) of this regulation is optional with the permittee or Chief of the Forest Service.

(B) The Chief of the Forest Service may provide for the receipt and disbursement of cooperative funds from stockmen for the improvement and protection of the range and other immediately related national forest interests which might otherwise be adversely affected by the grazing of livestock.

(C) The owners of all livestock grazed on or allowed to cross any national forest must repair damage caused by their livestock to roads, trails, springs, or other improvements. Failure to make prompt and adequate repairs, particularly after repeated notice, is sufficient grounds for suspending or revoking the offender's permit or preference in whole or in part.

(The provisions of this Regulation were formerly contained in §§ 231.15, 231.16, and 231.17)

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 19th day of April 1940.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-1571; Filed, April 19, 1940;
10:39 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[General Docket No. 12]

IN THE MATTER OF PRESCRIBING DUE AND REASONABLE MAXIMUM DISCOUNTS OR PRICE ALLOWANCES BY CODE MEMBERS TO "DISTRIBUTORS" UNDER SECTION 4, PART II (H) OF THE BITUMINOUS COAL ACT OF 1937, AND ESTABLISHING RULES AND REGULATIONS FOR THE MAINTENANCE AND OBSERVANCE BY DISTRIBUTORS IN THE RESALE OF COAL, OF THE PRICES AND MARKETING RULES AND REGULATIONS PROVIDED BY SECTION 4 OF THE ACT

AN ORDER EXTENDING THE PROVISIONS OF THE ORDER DATED DECEMBER 8, 1939, PERTAINING TO PROCEDURE IN RESPECT TO THE DETERMINATION OF THE PROCEEDINGS IN GENERAL DOCKET NO. 12

On December 8, 1939, the Director having entered, and the Secretary of the Interior having approved an order¹

herein pertaining to procedure, which provides as follows:

"It is ordered, That the proceedings in General Docket No. 12, instituted pursuant to the order of November 3, 1939,² shall be subject to the following procedure: Exceptions to the findings, conclusions, and order of the Director may be filed with the Secretary of the Interior, Interior Building, Washington, D. C., within ten days after the issuance of such findings, conclusions, and order. Three copies of such exceptions shall be filed, together with three copies of any supporting briefs. Such exceptions and briefs may be those submitted to the Director, in whole or in part, together with any supplemental exceptions or briefs which may be desired," and

The Director, by his orders establishing procedure herein, dated March 27, 1940,³ having provided, among other things, that, on or before April 15, 1940, there may be filed with the Director,

"(c) a request that the Findings and Conclusions of the National Bituminous Coal Commission on any phase of the matters included in General Docket No. 12 be reviewed by the Director, which request shall be accompanied by a specific statement of the points as to which review is desired and the contentions of the parties, and may be accompanied by a brief in support thereof and a request for oral argument as described in (b)."

Now, therefore, it is ordered That the provisions of the aforesaid order, dated December 8, 1939, providing for a review by the Secretary of the Interior, be and they are hereby extended to all phases of the proceedings in General Docket No. 12, instituted pursuant to the order and notice promulgated by the National Bituminous Coal Commission on March 12, 1938.⁴

Dated: April 11, 1940.

[SEAL]

H. A. GRAY,
Director.

Approved: April 17, 1940.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 40-1574; Filed, April 19, 1940;
11:28 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION THAT THE COLD STORAGE OF APPLES IN APPLE STORAGE WAREHOUSES IN THE "APPALACHIAN AREA" IN THE STATES OF PENNSYLVANIA, MARYLAND, VIRGINIA AND WEST VIRGINIA, IS AN INDUSTRY OF A SEASONAL NATURE

Whereas, upon consideration of applications filed by the Winchester Cold

Storage Company, Inc., and sundry other parties for the exemption of the cold storage of apples in apple storage warehouses in the "Appalachian area" in the states of Pennsylvania, Maryland, Virginia and West Virginia, from the maximum hour provisions of the Fair Labor Standards Act of 1938, as a branch of an industry of a seasonal nature within the meaning of section 7 (b) (3) and Part 526 of the regulations issued thereunder, a preliminary determination was made that a *prima facie* case had been shown for the granting of the aforesaid exemption to the cold storage of apples in apple storage warehouses in the "Appalachian area" and notice thereof was published in the FEDERAL REGISTER under date of October 4, 1939, in accordance with the procedure established by § 526.5 (c) of the said regulations; and

Whereas, within fifteen days following the publication of that preliminary determination the Administrator received objection and request for hearing; and

Whereas, the Administrator caused to be published in the FEDERAL REGISTER on October 21, 1939 (4 F.R. 4318) a notice which stated that a public hearing would be held pursuant to §§ 526.5 and 526.6 of the said regulations in Room 3229, U. S. Department of Labor, 14th Street and Constitution Avenue, Washington, D. C., to commence at 10:00 o'clock a. m. on November 2, 1939, before Harold Stein, an authorized representative of the Administrator, authorized to conduct said hearing, take testimony and hear arguments for the purpose of determining, and to determine the following question:

"Whether the cold storage of apples in apple storage warehouses located in the 'Appalachian area' is an industry of a seasonal nature or a branch thereof within the meaning of section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of the regulations issued thereunder."

As used in this notice:

The term "cold storage" of apples is used in the commonly accepted meaning and includes the receiving into storage, the maintaining in storage and the moving out of storage of such apples.

The term "apple storage warehouses located in the 'Appalachian area'" is understood to designate all apple storage warehouses located

(a) between the Allegheny Mountains on the west, the Blue Ridge Mountains on the east, U. S. Route No. 30 on the north, and U. S. Route No. 58 on the south, and

(b) in the Virginia counties of Albemarle, Nelson, Amherst, Bedford and Henry.

At this hearing all persons interested, including employees, employee groups, employee labor organizations, employers, employer groups, and trade organizations within the industry affected, and designated subordinates of the Administrator,

¹ 4 F.R. 4501.

² 5 F.R. 1227.

³ 5 F.R. 657.

were afforded an opportunity to present evidence and to be heard, and

Whereas, following said hearing and on the basis thereof the aforementioned Harold Stein duly made findings and determination and on April 10, 1940, filed same with the Administrator in Room 5144, U. S. Department of Labor Building, Washington, D. C., where copies of said findings and determination are available for examination by interested parties, and which contain the following determination:

1. Appalachian apples are harvested each year only in the months of September, October and November, and the great bulk of such apples move promptly into cold storage in local warehouses.

2. The apple storage warehouses in the "Appalachian area", as defined below, were constructed as apple storage warehouses and are used for that purpose with only an insubstantial amount of their space being used for other commodities.

3. The apple storage warehouses in the Appalachian area, handle about 40 per cent of all American export apples including chiefly certain types of apples produced primarily in this area, perform no work other than the receipt of apples except for the maintenance of the warehouses and the shipment of the stored apples for sale during the balance of the year. Aside from such activities the warehouses cease operation after the close of the receiving season in November.

4. The cold storage of apples in apple storage warehouses located in the "Appalachian area" is a branch of an industry and of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of Regulations issued thereunder.

The term "apple storage warehouses located in the 'Appalachian area'" is understood to designate all apple storage warehouses located

(a) between the Allegheny Mountains on the west, the Blue Ridge Mountains on the east, U. S. Route No. 30 on the north, and U. S. Route No. 58 on the south, and

(b) In the Virginia counties of Albemarle, Nelson, Amherst, Bedford and Henry.

The applications are granted subject to review under § 526.7 of the Regulations.

This determination is without prejudice to determinations on applications from other storage warehouses warehousing apples or other fruits and vegetables.

Now, therefore, pursuant to the provisions of § 526.7 of the aforesaid regulations any person aggrieved by the determination set forth above may, within

fifteen days after this notice appears in the FEDERAL REGISTER, file a petition with the Administrator requesting that he review the action of the said representative upon the record of hearing before the said representative. Such petitions must be filed in triplicate, setting forth the reasons for the requested review. Copies of all documents filed in this matter will be available for inspection by interested parties in Room 5144, U. S. Department of Labor Building, Washington, D. C.

Signed at Washington, D. C., this 15th day of April 1940.

PHILIP B. FLEMING,
Colonel, Corps of Engineers.
Administrator.

[F. R. Doc. 40-1567; Filed, April 18, 1940;
2:28 p. m.]

FEDERAL TRADE COMMISSION.

*United States of America—Before
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of April, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[Docket No. 3941]

IN THE MATTER OF ROY T. EHRENZELLER,
TRADING AS MAPLE LAWN POULTRY FARM
AND MAPLE LAWN HATCHERY

ORDER APPOINTING EXAMINER AND FIXING
TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., Section 41).

It is ordered, That W. W. Sheppard, an examiner of this Commission be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 29, 1940, at ten o'clock in the forenoon of that day (eastern standard time) in Library Room, Court House, Mifflintown, Pennsylvania.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then

close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-1575; Filed, April 19, 1940;
11:33 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of April, A. D. 1940.

[File No. 59-11]

IN THE MATTER OF THE UNITED LIGHT AND
POWER COMPANY AND ITS SUBSIDIARY
COMPANIES, RESPONDENTS

ORDER EXTENDING TIME FOR ANSWER AND
POSTPONING HEARING

The Commission having issued a Notice of and Order for Hearing in the within matter pursuant to Section 11 (b) (1) of the Public Utility Holding Company Act of 1935; said Notice of and Order for Hearing having required that the respondents herein file with the Secretary of the Commission on or before the 18th day of April 1940, their joint or several answers thereto; said respondents having requested that the Commission postpone the time for filing said answers and also the date of hearing in the within matter for a period of 60 days; and

The Commission having examined such request and having considered the public interest and the interest of investors and consumers and the issues involved; and

It appearing to the Commission that a postponement of the time for filing answers and of the date of hearing in the within matter for a lesser period is appropriate, and that the time within which persons may file requests and applications to intervene should be similarly extended;

It is ordered, That the time for filing answers and requests or applications to intervene in the above matter be and the same is hereby extended until the 2d day of May 1940, and that the date of hearing in the above matter be and the same hereby is postponed until the 22d day of May 1940, at the same hour and place specified in the said Notice of and Order for Hearing.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-1570; Filed, April 19, 1940;
10:35 a. m.]

